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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,401	12/18/2001	Tomas Back	21547/0287	9654
30678	7590	06/02/2004	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ LLP SUITE 800 1990 M STREET NW WASHINGTON, DC 20036-3425			BUMGARNER, MELBA N	
			ART UNIT	PAPER NUMBER
			3732	16

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,401

Applicant(s)

BACK ET AL.

Examiner

Melba Bumgarner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☒ Certified copies of the priority documents have been received in Application No. 09/423090.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 16 and 18 are objected to because of the following informalities: Appropriate correction is required. Recitation of “the blank” in claim 16, “the support element design”, “the seat positions” in claim 18, lack sufficient antecedent basis

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 11, it is unclear what is meant by “the plural seats are arranged to prevent communication between the surface and an opposing surface on the elongate support element through the plural seats” and it is unclear whether the implants are intended to be positively claimed in line 5. In claim 16, the method is not clear that the steps show producing the support element; the claim includes the step of forming at least one recess directly in a blank material, at least one recess is a seat in the (dental) product, a support element including a tooth replacement structure is the product, and using the seat in the product, and it further makes what is meant by “in conjunction with the production of a dental product from the blank” unclear. In claim 19, it is not clear what is any seat material if the seat is the at least one recess.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 11 are rejected, as understood, under 35 U.S.C. 102(b) as being anticipated Emmanuel. Emmanuel discloses an elongate support element 48 comprising plural seats (page 10 line 25) penetrating a surface on the element, center axes of the seats connecting with center axes of the implants to meet a fixed accuracy of fit, the element comprises a homogeneous material (page 12 line 34), a wall of each seat comprises the material, and figure 4 shown no communication between the surface and an opposing surface of the element. As to claim 12, each wall has a surface in the material. The process and the intermediate products used in the process by which the element is made are not given patentable weight, because a product claim is properly met if the final product is shown regardless of the process used. As to claims 13-15, the material at the wall possesses the same material in the element having same material strength, does not have intermediate layers of material compositions and material alterations, and the same chemical composition, in that the whole element is made of the same material. Emmanuel does not show material alterations other than shaping (machining) of the material.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 16-19 are rejected, as understood, under 35 U.S.C. 103(a) as being unpatentable over Antonson. Antonson discloses a method for producing a support element comprising

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forming at least one recess directly in a blank material or a dental product, using the recess as a seat in the product (page 3 line 32), the product is a support element including a tooth replacement structure, the seat meets accuracy of fit (figure 3), and the at least one recess is the form of a hole; however, Antonson does not show the specific type of hole, i.e. avoids forming a through hole. It would have been an obvious matter of choice to one having ordinary skill in the art as to the specific configuration of the recess, as it is not described in the specification nor disclosed as critical to the claimed method. As to claims 17 and 18, the seat is in the formed element using milling equipment, which is fed milling coordinates information and integrated milling data. As to claim 19, the recess avoids material not integral with the blank material.

Response to Arguments

8. Applicant's arguments filed August 6, 2003 have been fully considered but they are not persuasive. Applicants added a limitation to the product claim that is indefinite and does not appear to add a structural limitation and the method claim is not clear as to the claimed steps for producing a support element.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

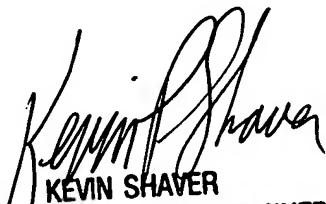
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 703-305-0740. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



Melba Bumgarner
Patent Examiner



KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700